

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Inquiry Concerning the Deployment of Advanced)	GN Docket No. 10-159
Telecommunications Capability to all Americans)	
in a Reasonable and Timely Fashion, and Possible)	
Steps to Accelerate Such Deployment Pursuant to)	
Section 706 of the Telecommunications Act of)	
1996, as Amended by the Broadband Data)	
Improvement Act)	

COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION

Frontier Communications Corporations (“Frontier”) hereby submits the following comments in response to the Federal Communications Commission’s (“Commission”) request for comment on its *Notice of Inquiry* addressing the reasonable and timely deployment of broadband to all Americans.¹

INTRODUCTION

Frontier, as the largest provider of communications services in rural America, shares the Commission’s broadband deployment goals. In its most recent report on the status of broadband deployment,² however, the Commission concluded for the first time that “broadband deployment

¹ *In re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 10-159, *Notice of Inquiry*, FCC 10-148 (rel. Aug. 6, 2010) (“*NOI*”).

² *In re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act; A National Broadband Plan for Our Future*, GN Docket Nos. 10-159; 09-51, *Sixth Broadband Deployment Report*, FCC 10-129 (rel. July 20, 2010) (“*Sixth Broadband Deployment Report*”).

to *all* Americans is not reasonable and timely.”³ Frontier disagrees with this progress assessment, particularly as measured by Frontier’s own service territories where it has already made significant progress towards meeting even the Commission’s newest and most ambitious broadband goal. Even though the average home density in Frontier’s legacy territories is just 13 homes per square mile, Frontier’s high-speed broadband service is available to 92 percent of the homes and businesses in these territories. In addition, Frontier distributed more than 90,000 free PCs and Netbooks through various marketing programs to address a significant hurdle to broadband adoption in its customer base—the lack of a home computer. This impressive build out and the broadband adoption programs were privately funded by Frontier’s shareholders and bondholders.

Frontier recently completed a transformational transaction with Verizon through which it added millions of new customers in rural America.⁴ Frontier now offers its full suite of communications services, including voice, high-speed Internet, wireless Internet data access, satellite video and fiber-to-the-home services to more than 4 million residential and business customers in 27 states. As with its legacy territory build out, Frontier will aggressively expand broadband service to these new customers. In fact, Frontier has formally committed to extending broadband service of 3 Mbps download speed to at least 85 percent of all homes and businesses in its expanded territory by 2013.⁵ Additionally, and consistent with the goals of the National

³ *Id.* at ¶ 2.

⁴ *See in re:* Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control, WC Docket No. 09-95, *Memorandum Opinion and Order*, 25 FCC Rcd. 5972 (rel. May 21, 2010) (“*Frontier Merger Order*”). Frontier completed its merger with Verizon on July 1, 2010.

⁵ *See id.* at Appendix C.

Broadband Plan, Frontier has committed to bring download speeds of 4 Mbps to 85 percent of the households in its new territories by the end of 2015.⁶

Frontier has a dedicated commitment to meeting the Commission’s broadband deployment goals but the Commission should be careful not to take steps that would undermine the significant progress that Frontier and others are making in rural America—one of the areas of greatest concern for the Commission.⁷ As described in these comments, there are concrete steps the Commission can take to ensure continued private investment in rural broadband and to produce a more uniform assessment of the progress of these deployments.

DISCUSSION

I. THE COMMISSION SHOULD NOT UNDERMINE INVESTMENT BY FURTHER ALTERING ITS NEW BENCHMARK FOR BROADBAND SPEED

In the *Sixth Broadband Report* the Commission reassessed the speed threshold for what it considers “broadband” for the first time in over a decade. In doing so, it adopted the National Broadband Plan’s recommendation that “every household in America have access to affordable broadband service offering actual download . . . speeds of at least 4 Mbps and actual upload . . . speeds of at least 1 Mbps” (4/1 Threshold).⁸ Frontier, as demonstrated above, is committed to meeting this ambitious goal in the most difficult of areas—rural America—and is investing hundreds of millions of dollars throughout its territory in an effort to do so. Yet in the *NOI*, the Commission seeks additional comment on whether its “speed threshold continue[s] to be

⁶ *Id.* In addition to these commitments, Frontier will not increase residential rates for voice services in the acquired markets for 18 months from the date of closing and former Verizon residential customers can continue with their existing tariffed price plans if they do not wish to take advantage of the new pricing bundles that will be offered by Frontier.

⁷ *Sixth Broadband Deployment Report* at ¶ 28 (“Based on our analysis, we conclude that broadband is not being deployed to all Americans in a reasonable and timely fashion. Our analysis shows that roughly 80 million American adults do not subscribe to broadband at home, and approximately 14 to 24 million Americans do not have access to broadband today. The latter group appears to be disproportionately lower-income Americans and Americans who live in rural areas.”).

⁸ *Id.* at ¶ 5.

reasonable, and if not, how should it be adjusted?”⁹ Frontier submits that there is no reason to adjust the just-enacted speed threshold at this time and further, to do so would create investor uncertainty and undermine the efforts of those companies committed to investing in unserved areas.

As an initial matter, the Commission not more than two months ago found that the 4/1 Threshold accommodates “stream[ing] high quality—even if not high definition—video while leaving sufficient bandwidth for basic web browsing and e-mail, a common mode of broadband usage today that comports directly with section 706’s definition of advanced telecommunications capability.”¹⁰ The NATIONAL BROADBAND PLAN devoted considerable resources earlier this year to researching the appropriate speed threshold and determined that “[a]n initial universalization target of 4 Mbps of *actual* download speed and 1 Mbps of *actual* upload speed, with an acceptable quality of service for interactive applications, would ensure universal access.”¹¹ Nothing has happened in either technical breakthroughs or infrastructure deployment over the past two months that changes the fact that the 4/1 Threshold is an appropriate measure of today’s broadband needs.

Further, the NATIONAL BROADBAND PLAN notes that the “universalization target of 4 Mbps download and 1 Mbps upload *is aggressive*. It is one of the highest universalization targets of any country in the world.”¹² The Commission believes that the 4/1 Threshold “provides an appropriate benchmark for measuring whether broadband deployment to all Americans is proceeding in a reasonable and timely fashion.”¹³ Indeed, it is using the 4/1 Threshold that the

⁹ *NOI* at ¶ 5.

¹⁰ *Sixth Broadband Deployment Report* at ¶ 5.

¹¹ FCC, OMNIBUS BROADBAND INITIATIVE, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN, GN Docket No. 09-51 at 135 (2010) (“NATIONAL BROADBAND PLAN”).

¹² *Id.* (emphasis added).

¹³ *Sixth Broadband Deployment Report* at ¶ 5.

Commission found “that broadband remains unavailable to approximately 14 to 24 million Americans.”¹⁴ If the Commission were to revise its threshold speeds now it would completely change its results of how many Americans lack broadband, and the costs required to deploy broadband to them, at the new threshold. Nothing exists in the record that shows that the 4/1 Threshold is no longer an “appropriate benchmark.”

The Commission should avoid the trap of trying to adjust threshold speeds before it has made significant progress in closing the availability gap as recommended in the NATIONAL BROADBAND PLAN. Changing the 4/1 Threshold now would also have a detrimental impact on infrastructure investment in areas that are currently unserved. Frontier’s commitment of providing 4 Mbps download speeds to 85 percent of its households in the former Verizon territories is in line with the Commission’s and the public’s expectations for a robust broadband experience and the company is investing hundreds of millions of dollars to meet this challenge. Yet even with this substantial investment, the deployment to these currently unserved customers will not be completed for five years due to the inherent high costs and other difficulties in building out rural broadband. Changing the broadband speed threshold at this juncture would have serious impacts on regulatory certainty surrounding broadband deployment that would threaten investment in rural areas at the very time it is needed most. The OBI White Paper on the Broadband Availability Gap notes that it is important to “provide support for networks that deliver proven use cases, not for future-proof build-outs.”¹⁵ It would have a substantial chilling effect on investment if the broadband product deployed would be instantly determined as obsolete with significantly more investment required. Ultimately, any resultant decrease in

¹⁴ *Id.*

¹⁵ FCC, OMNIBUS BROADBAND INITIATIVE, THE BROADBAND AVAILABILITY GAP, OBI TECHNICAL PAPER NO. 1, GN Docket No. 09-51 at 3 (2010).

investment would impact deployment to the unserved populations and thwart the Commission's service goals.

To the extent the Commission contemplates reviewing the speed threshold, it should at a maximum reassess it every four years as the National Broadband Plan proposes,¹⁶ but Frontier suggests that a five-year reassessment plan would be even more beneficial. Given that Frontier is the largest communications service provider in rural America with extremely aggressive broadband deployment targets that will affect millions, it would be prudent to wait until this deployment is complete in 2015 before assessing the results of how the new speeds provided in rural America are serving its customers' needs. Given that the Commission previously took a decade between reassessments, five years is more than reasonable.

II. BROADBAND AVAILABILITY SHOULD BE DEFINED BASED UPON HOUSING UNITS TO ENSURE RESIDENTIAL SERVICE PROGRESS AND INCREASE THE RELIABILITY OF ITS ANALYSIS

As the Commission reconsiders its definition of when broadband is "available,"¹⁷ Frontier urges the Commission to clarify that availability is defined in terms of "housing units" in order to assure that broadband is not merely serving its business customers, but the residential customers as well that have significant interest in broadband deployment. The Commission has previously stated that availability "refers to a consumer's ability to purchase a capability that has been deployed."¹⁸ Frontier suggests that this definition, with a few modifications, can form the basis of a workable and consistent availability measurement tool.

Communications companies that are deploying broadband have an economic incentive to serve the business interests of the community because these customers produce substantial revenues for the provider. Equally important to the Commission, yet often less so for

¹⁶ *NOI* at ¶ 6.

¹⁷ *NOI* at ¶ 9.

¹⁸ *Id.*

communications providers, are those residential consumers that produce a lower average revenue per user (“ARPU”) than business users. Additionally, businesses are generally located in the more densely populated areas, and, therefore are most likely to already be served by broadband. In order to ensure that the Commission’s “availability” definition adequately captures its complete deployment target of “all Americans,” the Commission should incorporate the concept of “housing units”¹⁹ into its definition. The current definition could be modified to state that availability “refers to a consumer’s ability to purchase a capability that has been deployed to, or can be accessed from, the housing unit.” These modifications would ensure that residential broadband deployment is accounted for while the access provision would incorporate wireless broadband and other alternate delivery mechanisms. Because the business customers are more likely to have broadband access, the Commission should focus on residential access to develop a true measure of “availability.”

In addition, adding the concept of housing units would promote uniformity amongst existing Commission measurement tools, ultimately leading to better analyses. For example, the Commission’s availability Model developed in response to the American Recovery and Reinvestment Act concluded that “approximately 14 million Americans, living in 7 million housing units, cannot get residential broadband service capable of providing actual speeds of 4 Mbps downstream and 1 Mbps upstream.”²⁰ In order for the Commission to measure its progress it must continue to assess the availability in terms of housing units, otherwise the baseline statistic is irrelevant. Frontier also notes that it is required to provide the Commission with substantial data on its broadband deployments over the coming years that will also be measured

¹⁹ Frontier accepts the definition of a housing unit, distinct from a household, as “a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters.” *Id.* at ¶ 11 n. 35.

²⁰ *Id.* at ¶ 11.

in terms of a percentage of housing units.²¹ Standardizing that unit of measurement will allow the Commission to better assess progress in rural areas and also how the rural areas are comparing to deployments in more dense populations.

III. DATA FRONTIER PROVIDES ON ITS BROADBAND DEPLOYMENTS SHOULD NOT BE USED TO EXTRAPOLATE GREATER TRENDS

As mentioned above, Frontier will be providing a significant amount of data on its broadband deployments to the Commission as a condition of Frontier's recent merger with Verizon. The *NOI* notes that "Frontier committed to provide the Commission with a report every six months including the percentage of housing units within the transferred area to which Frontier offers broadband services capable of delivering at least 4 Mbps download and 1 Mbps upload."²² The Commission then seeks comment on the extent to which it can use this data in the current inquiry to test its assumptions on its Model or to analyze the Form 477 subscribership data, but notes that there may be confidentiality, legal and practical concerns as well.²³

Frontier is proud of its history of broadband deployment as well as the commitments we have made going forward to deploy broadband in our new territories. We caution, however, that the data provided from a single company (particularly one that has been as focused as Frontier has been on the deployment of broadband) in a small sample of markets is insufficient to extrapolate greater trends in the overall deployment of broadband—rural or otherwise.

Further, we have concerns about the confidentiality of the data that we are providing to the Commission. As noted in the *NOI*, under its commitments in the *Frontier-Verizon Order*, Frontier will be providing the Commission periodic reports on its progress toward meeting the broadband deployment benchmarks set for the territories transferred from Verizon. As the

²¹ *Frontier Merger Order* at Appendix C (1) n.2.

²² *NOI* at ¶ 29.

²³ *Id.*

benchmarks are an aggregate test across the 14 state region, this information will be similarly aggregated. While Frontier has also committed to retaining substantial granular data for the purpose of verifying compliance with the commitments, this information is not filed with the Commission and, if reviewed by the Commission for compliance with the conditions, is protected by 47 U.S.C. § 220(f).²⁴ This recognized the high degree of competitive sensitivity of this granular information. While the Commission can seek such information to be provided under its general authority to request information from common carriers, such a request would be subject to the Commission's rules regarding confidential treatment and the protection of confidential information. Frontier hopes that the Commission will respect the competitive sensitivity of this data, and will not uniquely subject Frontier to the risk of inadvertent, competitively damaging disclosure simply because it has agreed to retain such information so that the Commission can verify Frontier's performance in accordance with its broadband deployment commitments.

²⁴ 47 U.S.C. § 220(f) (2006) ("No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.").

CONCLUSION

Frontier respectfully requests that the Commission take the actions described herein to ensure investment in broadband deployment and provide a more uniform assessment of its availability.

Respectfully submitted,

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